

1 Scott A. Kronland (SBN 171693)
2 Stacey M. Leyton (SBN 203827)
3 Eileen B. Goldsmith (SBN 218029)
4 Danielle E. Leonard (SBN 218201)
5 Robin S. Tholin (SBN 344845)
6 James Baltzer (SBN 332232)
7 ALTSHULER BERZON LLP
8 177 Post Street, Suite 300
9 San Francisco, CA 94108
10 Tel. (415) 421-7151
11 Fax (415) 362-8064
12 skronland@altber.com
13 sleyton@altber.com
14 egoldsmith@altber.com
15 dleonard@altber.com
16 rtholin@altber.com
17 jrbaltzer@altber.com

18 *Attorneys for Plaintiffs*

19 [Additional Counsel not listed]

20 UNITED STATES DISTRICT COURT
21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION

23 AMERICAN FEDERATION OF
24 GOVERNMENT EMPLOYEES, AFL-CIO;
25 AMERICAN FEDERATION OF STATE
26 COUNTY AND MUNICIPAL EMPLOYEES,
27 AFL-CIO, et al.,

28 Plaintiffs,

v.

UNITED STATES OFFICE OF PERSONNEL
MANAGEMENT, et al.,

Defendants.

Case No. 3:25-cv-01780-WHA

**SUPPLEMENTAL DECLARATION OF
ERIK MOLVAR**

SUPPLEMENTAL DECLARATION OF ERIK MOLVAR

I, Erik Molvar, declare as follows:

1. I am the Executive Director of the Western Watersheds Project (WWP), which is a Plaintiff in this action. This declaration supplements my previous declaration in support of Plaintiffs' TRO application (Dkt. 18-13).

2. The reductions in staffing as a result of OPM's termination of probationary employees is likely to have dire impacts on endangered species listing and recovery.

3. For example, just last week, in a case where WWP is a plaintiff, a district court in Montana extended the period for the U.S. Fish & Wildlife Service ("FWS") to make a finding on an Endangered Species Act (ESA) listing for the Arctic grayling, a freshwater fish in the salmon family. *See Center for Biological Diversity v. Burgum*, D. Mont. Case No. CV 23-02-BU-DLC. The Arctic grayling's habitat in the Upper Missouri River region is limited to a few cold-water streams and rivers, primarily in Big Hole and Ruby River watersheds in southwestern Montana. The species was once much more widely distributed. This species requires waters that stay below 70 degrees Fahrenheit year-round. At present, the habitat where the species still remains is threatened by low water, artificially reduced water levels reduced by irrigation withdrawals, and overgrazing in headwaters areas that reduces vegetation that shades water and keeps it cool. As the water becomes muddy and turbid, as a result of those activities, the water warms up. Right now, in hot spells there are only a few really cold water areas where Arctic grayling can find refuge. These isolated populations are becoming increasingly at risk. Last week, the district court extended FWS' time to complete its work on the ESA listing petition from August 2025 to February 2027. The court granted additional time based on the FWS' representation that the work could be completed within that time if there are not staffing reductions. However, we have now learned that FWS has lost more than 400 employees, which is likely to impact the completion of ESA findings including for the Arctic grayling. Every day that the FWS delays listing the species is a day there will not be strong protections in place for the habitat whose degradation is the primary threat to the species.

4. According to the Department of the Interior, the only wild population of the endangered Wyoming Toad exists in the Mortensen Lake Wildlife Refuge in the Laramie basin. The

SUPPLEMENTAL DECLARATION OF ERIK MOLVAR, No. 3:25-cv-01780-WHA 1

1 Wyoming Toad has been listed as endangered under the ESA since 1984. In my capacity as Executive
2 Director of WWP, I have participated in several meetings with FWS regarding recovery of the
3 Wyoming Toad. FWS operates a captive breeding program, and is trying to restock the toad in lakes
4 in the Laramie basin. Probably the biggest threat to the Wyoming Toad is the chytrid fungus, which
5 will kill the toads if it gets into the population. Because the existing toad populations are small and
6 isolated, the population as a whole is extremely vulnerable to this threat, which could wipe out the
7 small toad populations. To extent that FWS is unable to restore additional toad populations through
8 its breeding program to create redundancy, these small populations will be extremely vulnerable to
9 the risk posed by this fungus. I learned earlier this week that the hatchery that operates FWS'
10 breeding facility has lost its supervisor, who was a probationary employee. Of the other employees
11 there, two more have left in recent weeks, leaving the hatchery drastically understaffed. Now the
12 Wyoming Toad's recovery is further threatened by the reductions of staff at the FWS, which is
13 certainly going to delay recovery of the species.

14 5. The Wyoming Toad, and other endangered species, are on the edge of extinction
15 already. If government staffing reductions enable them to go extinct, by causing delays in the listing
16 and recovery process that allow further habitat to be lost or environmental conditions to worsen,
17 those species will be gone forever.

18 6. Our members are regular and avid users of the public lands in the Western United
19 States. They use the National Parks, wilderness areas, and other federal lands for recreation,
20 conservation, and study activities. They would be adversely affected by the degradation of public
21 lands and the worsening threats to species that are likely to result from the reductions of staffing at
22 the Fish & Wildlife Service and other federal agencies that will delay ESA listing decisions.

23 7. As noted in my previous declaration, I am a wildlife biologist and an author of hiking
24 guidebooks and backpacking manuals for national parks and wilderness areas in the Western United
25 States. I am also a member of WWP.

26 8. I personally visit the Big Hole valley frequently, where I have fished for Arctic
27 Grayling in the lakes of Sapphire Mountains immediately to the west. I've caught these fish in Fuse
28

1 Lake in the Sapphire Mountains, and I've also fished for them in Glacier National Park and in Alaska.
2 I currently have plans to visit the Big Hole Valley on my trip to Alaska this coming July 2025.

3 9. Knowing that the Arctic Grayling exists in the Ruby River and Big Hole River is
4 important to my peace of mind. If that species were to become extinct, my ability to enjoy that region
5 of Montana would be impaired. I would look across that landscape and be reminded of failures in
6 efforts of federal government to preserve this species, and the failures of my own conservation
7 efforts.

8 I declare under penalty of perjury under the laws of the United States that the foregoing is true
9 and correct. Executed this 26th day of February 2025 in Jacksonville, Oregon.

10
11 

12 Erik Molvar
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28